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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,847	04/12/2001	B.C. Hornady	HORNADY-2	2215

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EXAMINER

GUTMAN, HILARY L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 08/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/833,847

Applicant(s)

HORNADY, B.C.

Examiner

Hilary Gutman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The amendment filed 7/3/2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: a “non-pendant electronically operable remote controlled system” as recited in claim 9.

Applicant is required to cancel the new matter in the reply to this Office Action.

Drawings

1. The examiner acknowledges that the applicant intends to file corrected drawings but until then the following objections are maintained.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “non-pendant electronically operable remote controlled system” of claim 9, the “plurality of spring loaded locking mechanisms” of claim 11, “the plurality of snap shackles” of claim 12, and the “safety cable” of claim 14 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6 and 9-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "it" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "a non-pendant electronically operable remote controlled system". This limitation is unclear and is not apparently disclosed in the specification as originally filed or shown in the drawing figures. Specifically, the terminology used is not consistent with that previously disclosed or shown in the figures. "Non-pendant" would apparently be a remote controlled system that does not include a wire connection. However, a wire connection 18 is clearly shown (in Figure 1). For the purposes of examination, this limitation will not be considered.

Claim 10 recites the limitation "its second end" in 5 and the limitation "said remote controlled system" in line 5. There is insufficient antecedent basis for these limitations in the claim. Specifically, for "its second end" the modifier "its" should perhaps be deleted and "the" or "said" inserted therefore since the wire can only apparently have two ends. Alternately, the phrase could be replaced and substituted with "the other end" as well. With regard to "said remote controlled system", there are no apparent previous recitations of a remote controlled system in claim 10 or in claim 1 from which claim 10 now depends.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '573 in view of Ray.

JP '573 discloses the apparatus of the claimed invention including a payload 3, suspended track 59, hoist 15, 17, spreader bar 13, attaching means 23, covering 21, and rod 25 (or means to support a trailing portion of the covering). In addition, JP '573 inherently discloses (but does not specifically show) a retractable line. Initially the covering 21 is attached to the spreader bar 13. Then the retractable line lifts the crane (or hoist 15) to bring the covering 21 to an upper position of the rod 25. In order for the covering 21 to be lifted to the desired height, the retractable line must inherently be maneuverable in at least an up and down or vertical direction (see abstract). The rod 25 traverses beneath the track.

JP '573 lacks the retractable line being maneuverable in multiple directions.

Ray teaches a conventional crane with a retractable line or lift cable 92 which is capable of being wound on a drum. The retractable line or lift cable is flexible and can be maneuvered in multiple directions (as is apparent from the winding of the cable on the drum).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the apparatus of JP '573 with a flexible cable as the retractable line

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as taught by Ray in order to move the retractable line in multiple directions to more easily attach the covering thereto.

7. Claims 4, 5, 8, are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '573, as modified and applied to claim 1 above and further in view of Casteel.

Casteel teaches a crane-like apparatus for lifting a structure comprising a support structure with a base 23 and a vertically extending side frame (Figure 1) rigidly attached thereto; and rigid arms 11, 12 extending in perpendicular fashion from generally the same height of the side frame. The base is mounted on wheels 22.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the track of JP '573 upon the support structure of Casteel in order to allow the track to be moved not only in a vertical direction but also to other locations as well.

8. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '573, as twice modified and applied to claim 4 above.

JP '573, as twice modified, now discloses the track being suspended a sufficient distance away from the side frame such that the track may be suspended generally over the vertical centerline of a payload positioned beneath. The arms are apparently extended from the support structure at a sufficient height to overhang variable sized payloads positioned beneath.

9. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '573, as twice modified and applied to claim 4 above and further in view of the well know prior art.

Tether lines are very well known in the prior art. Tether lines are used to secure a person to an apparatus or structure while that person is performing a task. The tether line protects the

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person from falling. Tether lines often can be suspended from a support structure in a generally parallel fashion to a track or rail and a safety cable can be slidably engaged at one end to the tether line. (See previously cited references to Riches et al. '427, Lebow '152, Noles '599, and Choate 2002/0046902 A1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a conventional tether line and safety cable of the well known prior art to the apparatus of JP '573 in order to protect a person working on the apparatus.

10. Claims 9-10, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '573, as modified and applied to claim 1 above and further in view of Stewart '028.

Stewart '028 teaches an apparatus, for load handling, comprising: a suspended track, a hoist slidably engaged to the track; and means 96, 97 to move the hoist. The means to move the hoist comprise an electronically operable remote controlled system. In addition, the apparatus further comprises a guide 97 extending laterally from the hoist; and a wire (not numbered but seen in Figures 1 and 3) connected at one end to the hoist, running along the guide, and connected at the other end to the remote controlled system 96.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided an electronically operable remote controlled system, guide, and wire, as taught by Stewart '028, in place of the means of JP '573 in order to allow one man control of the entire crane assembly from ground level thereby allowing an operator to easily move the hoist while remaining a distance away from the hoist thereby remaining safe.

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11. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '573, as modified and applied to claim 1 above and further in view of Carlsson.

Carlsson discloses a snap shackle. A user can easily and conveniently operate this snap shackle with one hand and the snap shackle is not complicated, heavy, or expensive to produce. Accordingly, one of ordinary skill in the art at the time the invention was made would have used spring loaded locking mechanisms or snap shackles as taught by Carlsson in place of the hanging fixtures of JP '573, as modified, in order to allow a user to easily operate the snap shackle with one hand thereby providing the user one hand to hold on to something during the operation of the shackle.

Allowable Subject Matter

12. The indicated allowability of claims 4-8 and 13-14 is withdrawn in view of the newly discovered reference(s) and interpretation of the art. Rejections based on the newly cited reference(s) are stated above.

Response to Arguments

13. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496. The examiner can normally be reached on M-F 7:30am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3297 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.

16. **Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231

or faxed to:

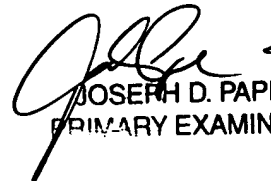
(703) 305-3597, (for formal communications intended for entry)

or:

(703) 308-3297, (for informal or draft communications, please clearly label

"PROPOSED" or "DRAFT").

hlg
July 29, 2003


JOSEPH D. PAPE
PRIMARY EXAMINER 7/30/03